of the prosecution's witnesses had made statements out of court as to what occurred which were at variance with their testimony at the trial. Defendant's attorney was ignorant as to the proper method of laying the foundation for this impeaching testimony and so it was excluded. *Held,* a new trial should be granted in order that the defendant might have an opportunity to present the proof in a proper way. *People* v. *Schulman* (Ill., 1921), 132 N. E. 530.

It is a general rule that, upon the principles of agency, a client is bound by the acts of his attorney. Thus, it has been held that the client is liable in damages for the misconduct of his attorney at the trial. *Eshelman* v. *Rawalt,* 298 Ill. 192. In *Hambrick* v. *Crawford,* 55 Ga. 335, equity refused to enjoin a judgment obtained when the defendant's attorney used only one defense which proved insufficient when the defendant had in fact several defenses. For a collection of cases, see 9 L. R. A. (n. s.) 524. The rule in New York, however, is contrary to the general rule and in accord with the rule of the principal case. The New York cases hold that a new trial may be granted when a client is injured by the neglect or ignorance of his attorney. *Sharp* v. *Mayor of New York,* 31 Barb. 578; *Elston* v. *Schilling,* 30 N. Y. Sup. Ct. 74. This doctrine has been characterized as showing "a fine spirit of humanity," but having "little regard for the settled principles of law." BLACK ON JUDGMENTS, § 376.

TRUSTS—CHARITIES—"PREACHING OF THE GOSPEL."—A testator directed that one-half of his residuary estate be paid to trustees and that they direct the use of the money for the purpose of "evangelization" and "in the preaching of the gospel as may to them seem best." Against the contention that it was too indefinite, it was *held* a valid charitable trust. *Rhodes* v. *Yater* (N. M., 1921), 202 Pac. 698.

The advancement of religion has been held charitable both before and after the Statute 43 Eliz., c. 4 (1601), which only referred to the "repair of churches" in enumerating charitable purposes. 2 PERRY, TRUSTS (Ed. 3), § 701. While indefiniteness of beneficiaries is necessary in a charitable trust, it is essential that a definite purpose and object be declared. A trust for missionary purposes in whatever field the trustee thinks best has been held not to fulfill this requirement. *Jones* v. *Patterson,* 271 Mo. 1. So also a bequest for the Lord's work, *In re Compton's Will,* 131 N. Y. S. 183; and for the propagation of the gospel in foreign lands, *Carpenter* v. *Miller's Ex'rs,* 3 W. Va. 174. On the other hand, it has been held that a trust for the spread of the gospel was sufficiently definite. *In re Lea,* L. R. 34 Ch. 528; *Att'y General* v. *Wallace's Devisees,* 46 Ky. 611. Trusts for the advancement of the Christian religion, *Miller* v. *Teachout,* 24 Ohio St. 525; for employing evangelists, *Greer* v. *Synod, Southern Presbyterian Church,* 150 Ky. 155; for such religious purposes as the trustees may think fit, *Going* v. *Emery,* 16 Pick. (Mass.) 107, and for extending the religion of Christian Science as taught by the testator, *Chase* v. *Dickey,* 212 Mass. 555, have been

upheld. As the cases indicate, it is quite impossible to harmonize the holdings or to formulate a rule by which it may be judged whether such a trust is too indefinite. The principal case is one of first impression in New Mexico and would seem correctly decided. This is especially so in view of the fact that the trustees were willing to act and a discretion had been vested in them as a means for making the trust more certain.

WATERS AND WATER COURSES—NO RIPARIAN RIGHTS IN MONTANA.—Plaintiff owned lands through which a stream flowed; defendant, by virtue of an appropriation duly made, diverted all the water in the stream and used it for irrigation purposes. Plaintiff, claiming only as a riparian owner, sued to enjoin defendant's diversion of the stream on the ground that it was an invasion of riparian rights. *Held,* that the common law doctrine of riparian rights does not prevail in Montana, and that plaintiff's complaint does not state a cause of action. *Mettler* v. *Ames Realty Co.* (Mont., 1921), 201 Pac. 702.

The question here decided has long been a vexed one. There has been no doubt that appropriation has been legal in Montana, as in most of the western states, "probably from the first moment that they knew of any law," as Mr. Justice Holmes says in *Bean* v. *Morris,* 221 U. S. 485. The question has been whether the doctrine of riparian rights has also existed, side by side with the doctrine of appropriation, as in California, or whether riparian rights have been rejected as unsuited to the climatic conditions, as in Colorado. It is remarkable that until the principal case no litigation has arisen in Montana which required a clear decision on the point. Earlier cases have contained *dicta* which support both sides. The opinion of the text-writers has favored the view that the California rule was applied in Montana. WIEL, WATER RIGHTS (Ed. 3), § 117, includes Montana among the states which recognize the "combined system of appropriation and riparian rights existing side by side," stating in a footnote that "*Smith* v. *Denniff,* 24 Mont. 20, had left room for doubt, but *Prentice* v. *McKay,* 38 Mont. 114, seems clear." LONG (IRRIGATION, § 18) comes to the same conclusion, citing the same authority. KINNEY (IRRIGATION, Ed. 2, Vol. 4, § 1880) says that the question is in doubt; he does not cite *Prentice* v. *McKay,* and apparently does not consider that it is in point. In the principal case the court takes the same view that was evidently taken by Mr. Kinney, and holds that *Prentice* v. *McKay,* in holding that riparian owners had rights which were superior to those of appropriators, referred only to the fact that appropriators could not trespass on riparian land for the purpose of initiating an appropriative right. In other words, the riparian right protected by that decision was a land right, not a water right, and the decision was therefore not controlling in the principal case. In view of the fact that the riparian right to the use of water has apparently been completely ignored in Montana, the case is not one of very great practical importance, but it is interesting as finally determining the view of the court on the question involved.